

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

L.C.,

Plaintiff,

v.

WELDON MARC GILBERT,

Defendant.

Case No. C09-5586BHS

ORDER GRANTING MOTION  
FOR PARTIAL LIFT OF STAY  
AND FOR WRIT OF  
ATTACHMENT

This matter comes before the Court on Plaintiff's Motion for a Partial Lift of Stay and Writ of Attachment (Dkt. 24). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby grants the motion for the reasons stated herein.

**I. INTRODUCTION AND BACKGROUND**

Plaintiff L.C. moves this Court for a partial lift of the stay entered on April 21, 2010 to obtain a prejudgment Writ of Attachment and Garnishment pursuant to FRCP 64(a), RCW 6.25 et seq. and RCW 6.26 et seq. L.C. seeks to attach and garnish real and personal properties owned by Defendant Weldon Marc Gilbert ("Gilbert") who has been convicted and sentenced to 25 years in federal prison for the sexual abuse of minor children, including L.C. L.C. further moves the Court pursuant to RCW 6.25.170 for an order directing Gilbert,

1 and other relevant witnesses, to disclose all assets through both oral examination and  
2 through answers to written interrogatories.

## 3 **II. WRITS OF ATTACHMENT AND PREJUDGED GARNISHMENT**

4 Pursuant to Fed. R. Civ. P. 64, every remedy available under state law for seizing a  
5 person or property to secure satisfaction of a potential judgment is available to a federal  
6 court litigant, including attachment and garnishment. Under Washington law, prejudgment  
7 attachment is governed by RCW 6.25 et seq., and prejudgment garnishment is governed by  
8 RCW 6.26 et seq. Both statutes expressly provide that a claimant is entitled to a  
9 prejudgment writ of attachment and garnishment in order to obtain security for satisfaction  
10 of any judgment the claimant may recover. In order to prevail on a motion for issuance of a  
11 prejudgment writ of attachment and/or garnishment, a claimant must establish two elements:  
12 (1) that there is probable cause to believe that the alleged statutory ground for attachment  
13 and/or garnishment exists; and (2) the probable validity of the claim sued on. RCW  
14 6.25.070(1) and RCW 6.26.060(1).

15 Washington law, RCW 6.25.030, provides for the issuance of a writ of attachment  
16 and prejudgment writ of garnishment for damages arising from the commission of a felony.  
17 RCW 6.25.030 and RCW 6.26.010.

18 L.C. has proven the probable validity of his claims. He was sexually abused by  
19 Gilbert. Gilbert was prosecuted and sentenced for his crimes. Liability is not in dispute.

20 Prior to issuance of a prejudgment writ of attachment and/or garnishment, a claimant  
21 must post a bond. RCW 6.25.080 and RCW 6.26.020. The purpose of the bond is to  
22 provide a fund from which a party may seek payment in the event the writ of attachment is  
23 wrongfully, oppressively, or maliciously sued out; or in the event the writ of garnishment is  
24 wrongfully or maliciously sued out. A bond amount of \$500 is appropriate under the facts  
25 and circumstances of this case. In the instant case, good cause exists for the Court to  
26 exercise its authorized discretion to fix a nominal bond amount by virtue of the nature of  
27


1 L.C.'s claims and Gilbert's lack of a meritorious defense. This is the amount also being  
2 requested by the state court plaintiffs for their writs of attachment.

3 Washington law further permits the Court to order Gilbert and other relevant  
4 witnesses to answer, under oath, questions by both oral examination and interrogatories,  
5 about Gilbert's respective assets such that Gilbert shall disclose all assets owned. See RCW  
6 6.25.170. The Court, nonetheless, finds that during the pendency of his state criminal  
7 proceedings it would be inappropriate to require Gilbert to be subject to deposition and/or  
8 written discovery concerning these issues. *See* Order Granting Defendant's Motion for Stay  
9 of Proceedings (Dkt. 23).

### 10 **III. ORDER**

11 Accordingly, it is hereby **ORDERED** that the Clerk shall issue a writ of attachment  
12 and garnishment in the amount of \$500,000 on both the real and personal property of  
13 Gilbert. The bond for these writs is set at \$500. Relevant witnesses shall disclose all assets  
14 and cooperate with answering questions about such assets through oral examination and by  
15 answering written discovery. Pending the resolution of the criminal proceedings in Pierce  
16 County Superior Court, Cause No. 07-1-05618-3, or further order of the Court, Gilbert shall  
17 not be deposed on these issues, nor written discovery issued to him.

18 DATED this 30<sup>th</sup> day of June, 2010.

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21 BENJAMIN H. SETTLE  
22 United States District Judge  
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